



"John D. Fognani"
<jfognani@fognanilaw.com>

06/12/2006 04:18 PM

To Mark.Elmer@usdoj.gov

cc "Sue A. O'Neil" <soneil@fognanilaw.com>, Peggy
Livingston/ENF/R8/USEPA/US@EPA

bcc

Subject RE: Noranda Settlement

Mark - Here is some additional information as requested.

The point person for notices will be the following:

Dave Hart
Vice President - Reclamation
Noranda Mining Inc.
C/O Noranda Aluminum
P O. Box 70
New Madrid, MO
63869

You may also want to add me below Dave as counsel. Since he is a VP he can also sign the agreement.

I can give you the final nod of approval by Friday. The client has asked us to wait for the final decision until the 15th. So we are close. Let me know if you have any questions or concerns.

Best regards. John

-----Original Message-----

From: John D. Fognani
Sent: Monday, June 12, 2006 2:55 PM
To: 'Mark.Elmer@usdoj.gov'
Cc: Sue A. O'Neil; Livingston.Peggy@epamail.epa.gov
Subject: RE: Noranda Settlement

Mark - I am seeking the information you requested. I hope to have it to you today or tomorrow. Let me know if you have any other questions or issues. John

-----Original Message-----

From: Mark.Elmer@usdoj.gov [mailto:Mark.Elmer@usdoj.gov]
Sent: Wednesday, June 07, 2006 10:20 AM
To: John D. Fognani
Cc: Sue A. O'Neil; Livingston.Peggy@epamail.epa.gov;
Mark.Elmer@usdoj.gov
Subject: RE: Noranda Settlement

John,

(1) I'm ok adding Falconbridge and Noranda Mining and their successors. If you want to specifically name any affiliates, we can consider those, but I am uncomfortable defining Settling Defendant by reference to the

general term "affiliates," as it is vague and ambiguous.

(2) We have made changes to background section consistent with your comments.

(3) If you provide me with the name and address of a person to receive notices relating to the decree per Section XIII and the name and title of the corporate official signing on behalf of Settling Defenant, I will add these items to the draft decree, and then resend it to you for signature.

Thanks,

Mark

-----Original Message-----

From: jfognani@fognanilaw.com [mailto:jfognani@fognanilaw.com]

Sent: Tuesday, June 06, 2006 4:51 PM

To: Elmer, Mark (ENRD)

Cc: soneil@fognanilaw.com

Subject: Noranda Settlement

Mark - I received the correspondence today via facsimile. Please consider the following:

As the released parties I suggest using "Falconbridge Limited, Noranda Mining Inc. and their Affiliates and Successors."

In addition, we would like to add the following sentence in the background section for the Noranda Consent Decree:

"By entering into this Consent Decree, the mutual objective of the Parties is to resolve the claims of the United States against Settling Defendant for Past Response Costs, subject to the reservation of rights in Paragraph 14, by allowing Settling Defendant to make a cash payment as described herein."

Fin ally, we should change the title to "Partial Consent Decree" and made changes to the first paragraph to clarify that Complaint only seeks relief pursuant to Section 107 for past costs (as opposed to 106 and/or future costs).

This avoids the problem of having a consent decree that settles something less than the entire case.

Let me know your thoughts when you have a chance. Best regards. John